

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

HARRY CARLOS OWEN,

Petitioner,

v.

CIVIL ACTION NO. 5:02-0854

UNITED STATES OF AMERICA,

Respondent.

ORDER

By Standing Order entered on December 28, 2001, and filed in this case on June 17, 2002, this matter was referred to United States Magistrate Judge R. Clarke VanDervort. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge VanDervort to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge VanDervort submitted his Proposed Findings and Recommendation on April 21, 2005. The magistrate judge made the following recommendations: (1) that the court confirm and accept the magistrate judge's findings, (2) that the court deny without prejudice petitioner's supplemental motion (Docket No. 851), and (3) that the court dismiss this case without prejudice and remove it from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Proposed Findings and Recommendation. The failure of any party to file

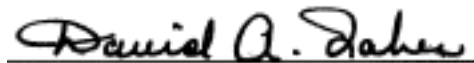
objections within the appropriate time frame constitutes a waiver of such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Petitioner filed his objections on June 8, 2005. The court has conducted a de novo review of the record as to all of the objections. For reasons to be discussed in a memorandum opinion to be filed forthwith, the court OVERRULES the plaintiff's objections. The court hereby: (1) CONFIRMS and ACCEPTS the magistrate judge's findings, (2) DENIES petitioner's supplemental motion (Docket No. 851), and (3) DISMISSES this case without prejudice; and (4) ORDERS the Clerk to remove it from the court's active docket. Additionally, the court DENIES petitioner's motion for an extension of time (Docket No. 857) as moot.

The Clerk is directed to forward a copy of this Order to the plaintiff, pro se, and to all counsel of record.

IT IS SO ORDERED this 16th day of September, 2005.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", written in black ink.

David A. Faber
Chief Judge